

SPECIAL CIVIL APPLICATION NO. 1477 OF 1986

Date of decision: 1-5-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S. K. KESHOTE, J  
(1-5-1996)

Mr. P. V. Hathi for the petitioner.  
Ms. Sejal Mandavia for respondents.

ORAL JUDGMENT:

The petitioner filed this writ petition in which prayer has been made for declaration that the petitioner was entitled to to be promoted and/or entitled to be considered for promotion on the date on which the order dated 12-12-1985 was passed by the first respondent, and to direct the respondents to suitably modify the said order and to grant all consequential benefits like arrears of pay, seniority in the higher grade, etc.,

2. The petitioner's contention is that he has been superseded by his juniors without any justification. The learned counsel for the petitioner stated before the Court that after filing this writ petition the respondents, under order dated 2-4-1988, have given promotion to the petitioner as Deputy Executive Engineer. The petitioner made representation and on his representation the respondents, vide order dated 22-9-1989, have given him deemed date of promotion from 12-12-1985, with direction to insert his name in the seniority list accordingly. It has further been stated that in view of the subsequent developments the grievance made by the petitioner are substantially redressed. The counsel for the petitioner contended that though under order dated 6-10-1990 the pay of the petitioner is also refixed, he was only given notional benefit of promotion and not the monetary benefits. Copy of the order dated 6-10-1990 has not been filed by the counsel for the petitioner along with the application for amendment of the writ petition. But it is not in dispute that the petitioner has been given notional benefits.

3. The petitioner filed civil application No. 2372 of 1973 in which prayer has been made to direct the respondents to pay to the petitioner amount of Rs.11,015/together with interest at the rate of 15% from 1-10-1990, towards arrears of pay in view of the order promoting him on the post of Deputy Executive Engineer with effect from 12-12-1985. learned counsel for the respondents is unable to satisfy this court why the petitioner has been given only notional benefit when he has been accepted to be fit for deemed promotion. Though substantial relief has been given to the petitioner, dispute remains on the question of monetary benefits or notional benefit for the interregnum. But it is a different cause of action for which it is proper that the petitioner may first make representation to respondent No.2. In case such a representation is made by the petitioner to respondent No.2, it is obligatory on the part of respondent No.2 to consider the same and, in case the grievance of the petitioner is not acceptable, to give reasons for the same meaning thereby, a reasoned order is required to be passed

and a copy of the same has to be given to the petitioner by registered post.

4. Looking to the fact that it is only the question of consideration of claim of the petitioner for monetary benefits, it is directed that respondent No.2 shall decide the representation, if it is made by the petitioner in this respect, within a period of one month from the date of receipt of the same. The petitioner shall also send copy of this order to respondent No.2. The petition stands disposed of in the aforesaid terms. Subject to the aforesaid observations, rule discharged. No order as to costs.

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